

2/5/295

STATE OF SOUTH CAROLINA

(Caption of Case)

Happy Rabbit, LP on behalf of Windridge
Townhomes,
Complainant,

v.

Alpine Utilities, Inc.,
Defendant.

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2008 - 360 - S

(Please type or print)

Submitted by: Benjamin P. Mustian, Esquire

SC Bar Number: 68269

Address: Post Office Box 8416

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Columbia, SC 29202

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Other:

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☒ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input checked="" type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input checked="" type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

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WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

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TELEPHONE 252-3300
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TRACEY C. GREEN
SPECIAL COUNSEL

*ALSO ADMITTED IN TX

February 17, 2009

VIA HAND-DELIVERY

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RECEIVED
2009 FEB 17 PM 4:14
PUBLIC SERVICE
COMMISSION

RE: Happy Rabbit, LP on behalf of Windridge Townhomes v. Alpine Utilities, Inc.;
Docket No. 2008-360-S

Dear Mr. Terreni:

Enclosed for filing on behalf of Alpine Utilities, Inc. are the original and twenty-five (25) copies of the Direct Testimony and Exhibits of Robin Dial in the above-referenced matter. Please note that Exhibit 3 to Mr. Dial's testimony consists of two oversized plats which are similarly being provided to all parties of record. In addition, however, Alpine has included reduced copies of the plats for ease of use by the Commission and the parties.

By copy of this letter, I am serving a copy of these documents upon the parties of record to this proceeding and enclose a Certificate of Service to that effect. I would appreciate your acknowledging receipt of this Testimony by date-stamping the extra copy that is enclosed and returning the same to me via our courier.

If you have any questions, or if you need any additional information, please do not hesitate to contact me.

Sincerely,

WILLOUGHBY & HOEFER, P.A.



Benjamin P. Mustian

BPM/cf
Enclosures

The Honorable Charles L.A. Terreni

February 17, 2009

Page 2

cc: Nanette S. Edwards, Esquire (via first class mail)
Richard L. Whitt, Esquire (via hand delivery)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-360-S

IN RE:

Happy Rabbit, LP on behalf of Windridge,
Townhomes,

Complainant

v.

Alpine Utilities, Inc.,

Defendant.

DIRECT TESTIMONY OF
ROBIN DIAL

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Robin Dial. My business address is 2712 Middleburg Drive, #208,
Columbia, South Carolina 29204-2415.

Q. WHERE ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am currently employed as the President and General Manager of Alpine Utilities,
Inc. ("Alpine" or "the Company"). I have been employed in this position since 2007.

**Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE
WITH ALPINE?**

1 A. I graduated from the University of North Carolina at Chapel Hill in 1967 and,
2 subsequently, conducted graduate work in Real Estate and Urban Land studies at the
3 University of Florida. In 1968, I began work with the McTeer Real Estate Company, which
4 became Edens & McTeer, which is now known as Edens & Avant, where I was Vice-
5 President of Development for many years. In 1985, I left to start the real estate firm of Dial,
6 Dunlap, McCracken & Smith which has become Dial, Dunlap & Edwards.

7 I began my employment with Alpine in 1987 as Vice-President of the Company
8 where I assisted my father, J. Donald Dial, Sr., on various matters as needed including
9 vendor and contractor relations, lender negotiations and overseeing and managing plant
10 operations. In 1999, I became the President of Alpine with J. Donald Dial, Sr. serving as
11 General Manager. Beginning in August 2007, my father experienced severe ill health and on
12 November 16, 2007, he passed away. I assumed my father's responsibilities as General
13 Manager as well as being President of the Company and assumed full responsibility for all
14 duties which included the handling of regulatory and other governmental matters, making
15 Company banking and financial decisions, supervising customer issues, and managing
16 personnel matters. Additionally, I have since taken on other duties and responsibilities,
17 including developing system inspection procedures and control program requirements; and
18 overseeing and researching design and cost control issues relating to plant maintenance,
19 operation and upgrades.

20
21 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

22 A. The purpose of my testimony is to address the complaint filed by Happy Rabbit, L.P.

1 ("Happy Rabbit") on behalf of Windridge Townhomes in this proceeding. I will provide a
2 history of the customer relationship between Alpine and Happy Rabbit and its predecessors, a
3 description of the facilities serving Windridge Townhomes, and Alpine's response to the
4 testimony submitted in support of Happy Rabbit's complaint and the relief it requests of the
5 Commission.

6
7 **Q. WHEN DID ALPINE FIRST DISCUSS THE PROVISION OF SEWER SERVICE TO**
8 **WINDRIDGE TOWNHOMES?**

9 A. According to Company records, Alpine was approached in 1983 by the original
10 developer of the property, Mr. Taylor Boyd of Boyd Construction Company, also known as
11 TFB Construction ("TFB Construction"). By letters dated May 9, 1983 and December 6,
12 1983, copies of which are attached as Exhibit 1, Alpine informed Mr. Boyd that Alpine had
13 sufficient capacity to serve the proposed development. Alpine further stated that Alpine
14 could only commit to serve the property "at the time a sewer contract is entered into by both
15 parties and the sewer tap fee paid."

16
17 **Q. DID ALPINE SUBSEQUENTLY AGREE TO PROVIDE SEWER SERVICE TO**
18 **WINDRIDGE TOWNHOMES?**

19 A. Yes, it did. By way of a letter dated February 16, 1984 which is attached to my
20 testimony as Exhibit 2, Alpine informed TFB Construction that it would accept for
21 maintenance in perpetuity the eight-inch outfall sewer mains as shown more clearly in the
22 Utilities Plans attached to my testimony as Exhibit 3. As I will discuss more fully later in my

1 testimony, Alpine did not, however, accept the individual collection lines serving the
2 individual duplexes. Additionally, and more importantly, TFB Construction, on behalf of
3 Complex Partnership, a General Partnership, ("Complex Partnership") entered into a contract
4 with Alpine dated July 23, 1984, a copy of which is attached to my testimony as Exhibit 4.
5 Therein, TFB Construction, on behalf of Complex Partnership, stated that it desired to secure
6 sewer service to the project and agreed "[t]hat it will continue to take service from the Utility
7 as long as the Utility remains approved to render such service by the South Carolina
8 Department of Health and Environmental Control ["DHEC"].” TFB Construction, on behalf
9 of Complex Partnership, further agreed that “it will ... bring its service pipe to the nearest
10 outfall line” and “that it will pay to the Utility a monthly service charge” “in accordance with
11 Alpine’s approved schedule of charges, as set forth by the South Carolina Public Service
12 Commission.” The agreement also provides that its terms “shall enure (*sic*) to the benefit of
13 the successors and assigns of the respective parties [thereto].”
14

15 **Q. DID TFB CONSTRUCTION, COMPLEX PARTNERSHIP AND THEIR**
16 **SUCCESSORS MAKE THE PAYMENTS AS REQUIRED?**

17 A. Alpine’s records demonstrate that TFB Construction did pay the tap fee as set forth in
18 the agreement. Further, with the exception of Happy Rabbit’s current delinquency which has
19 accrued to an amount of \$5,084.99 while this matter has been pending, TFB Construction
20 and its successors and assigns, including Mrs. Carolyn D. Cook and Happy Rabbit, have
21 made monthly payments in accordance with the agreement.

1 **Q. HAS ALPINE REMAINED APPROVED TO RENDER SEWER SERVICE BY**
2 **DHEC?**

3 A. Yes. As the Commission is aware from our recent rate case proceeding in Docket
4 No. 2008-190-S, Alpine has held the requisite authority to provide sewer service from both
5 DHEC and the Commission for over thirty-five years.

6
7 **Q. BASED UPON YOUR UNDERSTANDING OF THE AGREEMENT, WHO BECAME**
8 **THE CUSTOMER OF ALPINE AT THE TIME IT WAS ENTERED INTO?**

9 A. From my reading of the agreement, Complex Partnership clearly became the
10 customer of Alpine Utilities. Complex Partnership, through TFB Construction, formally
11 requested sewer service for the entire project which consisted of twenty-three duplex
12 buildings and became contractually obligated to pay Alpine for such services. Additionally,
13 TFB Construction, on behalf of Complex Partnership, paid the requisite tap fees for the entire
14 project and the applicable owner of Windridge Townhomes thereafter made payment for
15 sewer services rendered to the entire project. The subsequent owners of Windridge
16 Townhomes who are successors to the agreement – namely Windridge Limited Partnership,
17 Mrs. Cook, and Happy Rabbit – have all continued to maintain this customer relationship
18 with Alpine.

19
20 **Q. WHO DOES ALPINE CONSIDER TO BE ITS CUSTOMER NOW?**

21 A. For two different reasons, Alpine considers Happy Rabbit, as the owner and operator
22 of the duplex apartment development known as Windridge Townhomes, to be its customer.

1 First, Happy Rabbit is the successor and assign of the original agreement whereby Alpine
2 agreed to serve the property. Further, after she acquired the property, Mrs. Cook contacted
3 Alpine to establish sewer service in her name on or about December 15, 1999. It is Alpine's
4 understanding of Commission Regulation 103-534 that an accepted application for service
5 constitutes a contract between the company and the applicant and obliges the applicant to pay
6 for sewerage service in accordance with the utility's tariff. Therefore, Alpine believes that,
7 even if no previous customer relationship existed, when Mrs. Cook contacted Alpine to
8 continue service to the property, she became the customer of Alpine. Happy Rabbit, as a
9 successor in interest to Mrs. Cook who is also a general partner of Happy Rabbit, is the
10 customer today.

11
12 **Q. HAS HAPPY RABBIT EVER ASSERTED TO ALPINE THAT IT IS NOT A**
13 **CUSTOMER OF ALPINE?**

14 A. No. In fact, Happy Rabbit has admitted in discovery that it is the customer of Alpine
15 and that tenants at Windridge Townhomes are not customers of Alpine.

16
17 **Q. HAS ALPINE EVER RECEIVED ANY REQUEST FROM A TENANT OF**
18 **WINDRIDGE TOWNHOMES TO ESTABLISH A SEWER SERVICE ACCOUNT IN**
19 **HIS OR HER NAME?**

20 A. No. Alpine's records do not indicate any such contact from any tenant of Windridge
21 Townhomes.

1 **Q. CONSIDERING HAPPY RABBIT ADMITTEDLY EXISTS AS THE CUSTOMER**
2 **OF ALPINE, DID IT EVER ASK ALPINE TO TERMINATE ITS STATUS AS A**
3 **CUSTOMER?**

4 A. No, it did not. As the Commission is aware, under its regulation 103-534.C, a
5 customer must notify the utility orally or in writing that the customer desires to terminate
6 service and the utility is allowed a reasonable period of time after receiving notice to do so.
7 Alpine has never received any notification from Happy Rabbit that it wanted to terminate
8 service to the property. By its complaint, however, it appears that Happy Rabbit believes that
9 Section 27-33-50 of the South Carolina Code allows it to require Alpine to unilaterally force
10 the tenants of Windridge Townhomes to become customers of the Company and relieve
11 Happy Rabbit of its obligations as a utility customer.

12
13 **Q. DOES ALPINE AGREE WITH HAPPY RABBIT'S INTERPRETATION OF**
14 **SECTION 27-33-50?**

15 A. No, it does not.

16
17 **Q. COULD YOU EXPLAIN THE REASONS WHY THE COMPANY DISAGREES**
18 **WITH HAPPY RABBIT'S INTERPRETATION OF THIS PROVISION?**

19 A. Yes. Alpine understands this section to mean that, where a **tenant** is the **customer** of
20 the utility, the utility cannot require the landlord to be responsible for the **tenant's** account,
21 unless otherwise agreed in writing. The Company does not interpret this section to mean that
22 a landlord cannot agree to acquire sewer service from a utility and enter into a direct

1 customer relationship with the utility. In the situation currently before the Commission,
2 Happy Rabbit's predecessors agreed to be the customer of Alpine and that agreement has
3 been assigned to Happy Rabbit. Additionally, as I discussed earlier, Happy Rabbit has
4 admitted that it is the customer of Alpine and that the individual tenants of Windridge
5 Townhomes are not customers of Alpine. Here, Alpine has not required Happy Rabbit to be
6 liable for a tenant's account inasmuch as the individual tenants of Windridge Townhomes are
7 not customers of Alpine and therefore do not have accounts with Alpine. Rather, Happy
8 Rabbit serves as Alpine's customer, receives sewer service from Alpine, and is responsible
9 for all charges for such services.

10
11 **Q. ARE YOU AWARE OF HAPPY RABBIT'S ASSERTION THAT THE STATUTE**
12 **REQUIRES TENANTS TO ALWAYS BE FINANCIALLY RESPONSIBLE FOR**
13 **SEWER SERVICES?**

14 A. I understand that to be Happy Rabbit's general contention, and Alpine believes that it
15 is incorrect. However, even if Happy Rabbit's interpretation of the statute is correct, which
16 Alpine disputes, Happy Rabbit purchased Windridge Townhomes subject to the original
17 agreement between the original developer and owner of the duplexes. Therein, the owner of
18 Windridge Townhomes agreed to be responsible for sewer service to the entire property.
19 Therefore, because the owner "otherwise agreed in writing," Happy Rabbit's interpretation of
20 the statute would still be inapt.

21
22 **Q. ASSUMING THAT HAPPY RABBIT'S INTERPRETATION OF THE STATUTE IS**

1 CORRECT, AND ASSUMING THAT THE ORIGINAL AGREEMENT IS NOT
2 CONTROLLING IN THIS SITUATION, IS IT POSSIBLE FOR ALPINE TO
3 DIRECTLY SERVE THE TENANTS OF WINDRIDGE TOWNHOMES?

4 A. Even accepting those assumptions as accurate, which Alpine again disputes, it would
5 not be possible for Alpine to directly serve the tenants of Windridge Townhomes because the
6 necessary facilities have not been installed to serve individual customers. As I previously
7 mentioned in my reference to Exhibit 2, Alpine agreed to only accept the eight-inch (8")
8 outfall sewer mains running in the street rights of ways and down the back lot line of the
9 property. The lines in question are clearly shown in Exhibit 3 which consists of the Utilities
10 Plans for the property. As is evident from these documents, the eight-inch mains are not
11 directly connected to the duplexes of Windridge Townhomes. Rather, six-inch collections
12 lines, which are owned and maintained by Happy Rabbit, collect wastewater from the duplex
13 buildings and transport the wastewater to the mains maintained by Alpine.

15 Q. WHY IS THE NATURE OF THE COLLECTION LINES IMPORTANT?

16 A. As is evident from the Utilities Plan, each duplex building owned by Happy Rabbit,
17 which each contain two rental units, **are only served by a single customer service pipe.** As
18 the Commission is aware, its regulation 103-555.B. states that a customer shall install and
19 maintain that portion of the service pipe from the end of the utility's service pipe into the
20 premises served and **that each customer's service pipe shall serve no more than one**
21 **customer.** Additionally, Commission Regulation 103-540 provides that a utility is obliged
22 to operate and maintain its facilities and equipment used in connection with the services it

1 provides to any customer **up to and including the point of delivery from systems or**
2 **facilities owned by the customer.** In this case, the facilities owned by the customer are the
3 collection lines/customer service pipes owned by Happy Rabbit. This is self evident from the
4 fact that tenants do not own apartment complexes in which they reside.

5 As I previously noted, Happy Rabbit is the customer of Alpine and is responsible for
6 all payments for sewer service. Should the individual tenants be required to become
7 customers of Alpine as appears to be Happy Rabbit's goal, a single customer service pipe
8 will serve two customers. Such an arrangement would be inappropriate, not only because it
9 would conflict with Commission regulations governing the provision of sewer service, but
10 would also result in unreasonable restrictions on Alpine's ability to provide service.

11
12 **Q. COULD YOU EXPLAIN WHY SERVING CUSTOMERS USING A SINGLE**
13 **CUSTOMER SERVICE LINE WOULD CREATE UNREASONABLE**
14 **RESTRICTIONS IN THIS CIRCUMSTANCE?**

15 A. Yes. As with all utilities, Alpine is afforded the right to disconnect customers if
16 certain conditions exist, including the failure to pay a bill for services rendered. The current
17 configuration of Happy Rabbit's customer service pipes is such that a single line serves two
18 residential units. Alpine would, therefore, be unable to distinguish between service provided
19 to two separate tenants residing in the same duplex building.

20 Alpine's position is best explained by way of an example. Assume that a single
21 duplex building contains two residential units rented by Tenant A and Tenant B who are each
22 individual customers of Alpine. As with Windridge Townhomes, the two residential units are

1 served by a single collection line. Assume for this scenario that Tenant A remains current on
2 his monthly service charges and does not otherwise give Alpine reason cause to disconnect
3 his service while Tenant B, on the other hand, becomes delinquent in payment and becomes
4 subject to termination pursuant to Commission regulations. Because only a single customer
5 service pipe exists to the duplex building, it would be impossible for Alpine to terminate
6 sewer service to Tenant B without simultaneously terminating sewer service to Tenant A.
7 Therefore, Alpine would not be able to enforce its rights pursuant to Commission regulations
8 without directly affecting the rights of a customer who has not breached his utility
9 responsibilities.

10
11 **Q. WOULD ALPINE BE WILLING TO INSTALL THESE FACILITIES?**

12 A. Alpine has not contractually agreed to be responsible for maintaining or owning the
13 customer sewer lines and is not obligated to do so pursuant to Commission regulations. As I
14 stated earlier, Alpine is only responsible for its facilities up to and including the point of
15 delivery from systems or facilities owned by the customer – the customer service pipe.
16 Moreover, as provided in Commission regulations 103-502.4 and 103-502.7, the customer is
17 responsible for the line which is located on the applicable tract of land and for transporting
18 the wastewater to the Company's facilities. In 1983, the original developer, who entered into
19 the agreement with Alpine as its customer, made the business decision that the property
20 should be served by single customer service pipes to each duplex building and chose to
21 install the facilities for service to be provided in this fashion. The Company believes it would
22 be unreasonable and contrary to Commission regulations and other law to require Alpine,

1 twenty-six years later and at its own cost, to install the facilities necessary to serve the
2 individual units of the duplex complex in this manner. Additionally, if such a requirement
3 could lawfully be imposed on Alpine, the cost of installing such facilities would necessarily
4 be passed through to **all** of Alpine's customers in its next rate case proceeding. Such a
5 requirement would be especially unreasonable inasmuch as it would require all of Alpine's
6 ratepayers to bear the cost necessary simply to satisfy the desires of Happy Rabbit to
7 negotiate different terms and conditions for the extension of Alpine's services to its property
8 than were agreed to and have been observed by the owners of the property since 1984.

9
10 **Q. NOTWITHSTANDING ALPINE'S POSITION, IS ALPINE WILLING TO SERVE**
11 **THE INDIVIDUAL TENANTS AS SUGGESTED BY HAPPY RABBIT?**

12 A. Alpine is certainly willing to serve the individual tenants of Windridge Townhomes
13 as customers if the proper facilities are installed at no expense to Alpine. In Alpine's
14 estimation, such an undertaking would be substantial. Initially, individual customer service
15 pipes would have to be installed to each of the duplex units. If Happy Rabbit were not
16 willing to undertake the installation of such facilities, the individual tenants – who are
17 currently receiving sewer service through Happy Rabbit's customer relationship with Alpine
18 – would have to obtain an easement from Happy Rabbit to install these lines and would be
19 required to install such facilities at the tenants' own cost which I would estimate to be
20 approximately \$1,000 to \$1,500 dollars for each duplex building. Additionally, because
21 these new customer service lines would be required to be connected to Alpine's sewer mains,
22 the individual tenants would be required to each pay tap fees of \$250 in accordance with

1 Alpine's approved rate schedule. Further, Alpine may require deposits which could total
2 \$33.50 per tenant based on current rates. While Alpine stands willing to serve the individual
3 tenants if such steps are taken, it is Alpine's belief that these significant costs would be
4 unduly burdensome on the tenants, who are not even parties to this proceeding. Moreover,
5 Alpine does not believe that, simply at Happy Rabbit's behest, it has the ability, the right or
6 the responsibility to force these tenants to become customers – especially when they have not
7 been able to express their opinion to the Commission as to whether they would agree to such
8 an arrangement.

9
10 **Q. DO YOU HAVE ANY COMMENTS WITH RESPECT TO MR. COOK'S**
11 **TESTIMONY THAT HE INFORMED ALPINE OF ITS PURPORTED STATUTORY**
12 **NONCOMPLIANCE THROUGH CONTACT WITH THE COMPANY'S COUNSEL?**

13 A. Yes. Mr. Cook asserts in his testimony that he spoke with Alpine's attorney, John
14 Hoefer, concerning Happy Rabbit's contention that a statute precluded Alpine from charging
15 Happy Rabbit for sewer services. Sometime in June of 2008, Mr. Hoefer informed me that
16 he had been contacted by Mr. Cook to inquire about service of a petition to intervene in
17 Alpine's then pending rate case in Docket 2008-190-S and that, in the course of this inquiry,
18 Mr. Cook asserted his belief that a statute required Alpine to serve the Windridge
19 Townhomes tenants directly. Shortly thereafter on June 20, 2008, Mr. and Mrs. Cook
20 petitioned to intervene in Alpine's rate case. Counsel for Happy Rabbit subsequently filed a
21 notice of appearance in that matter on behalf of Mr. and Mrs. Cook. Mr. Hoefer informed
22 me that he did not believe it would be appropriate for him to contact Mr. Cook directly while

1 he was represented in an adversarial proceeding.

2 While Alpine was considering a response to Mr. Cook's inquiry to Mr. Hoefer,
3 Happy Rabbit's counsel sent, on behalf of "the owners and operators of Windridge
4 Townhomes" a demand letter dated July 24, 2008 to Alpine setting forth Happy Rabbit's
5 claims, a copy of which is attached to my testimony as Exhibit 5. By letter dated August 7,
6 2008, a copy of which is attached hereto as Exhibit 6, and at Alpine's specific instruction,
7 Mr. Hoefer replied to Happy Rabbit's counsel requesting further information to evaluate
8 Happy Rabbit's assertions and indicating Alpine's willingness to meet with the
9 representatives of Happy Rabbit without counsel for both parties. It is my understanding that
10 neither Happy Rabbit nor its counsel ever responded to Mr. Hoefer's August 7 letter. Rather,
11 Happy Rabbit chose to institute legal proceedings in both circuit court and before this
12 Commission. Therefore, I believe that Mr. Cook's insinuation that Alpine was unresponsive
13 to his assertion regarding the statute in question is unfounded.

14
15 **Q. COULD YOU PLEASE SUMMARIZE YOUR TESTIMONY IN THIS**
16 **PROCEEDING?**

17 A. I believe that Happy Rabbit's contention that Alpine is statutorily precluded from
18 charging Happy Rabbit for sewer service provided to its property is simply incorrect. Happy
19 Rabbit, as a successor and assign of previous owners of Windridge Townhomes, is subject to
20 a written agreement whereby it is contractually responsible for all sewer charges to the
21 development. Moreover, Happy Rabbit has never requested that service be terminated.
22 Further, Happy Rabbit and its immediate predecessors are admittedly customers of Alpine

1 and have consented to be responsible for such charges through applications for service made
2 to Alpine. Therefore, Alpine believes that Happy Rabbit's complaint in this proceeding
3 should be denied.

4 Nevertheless, Alpine stands willing to serve the individual tenants of Windridge
5 Townhomes provided the necessary facilities are installed at no cost to Alpine in accordance
6 with the Commission's regulations and service accounts are established and the appropriate
7 tap fees are paid pursuant to its approved rate schedule. However, Alpine believes it is
8 inappropriate to impose these obligations and financial responsibilities on tenants of Happy
9 Rabbit who are not parties to this matter and who have not been able to express their
10 opinions in this matter.

11
12 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

13 **A.** Yes, it does.

08/19/2008 10:37 FAX

ALPINE UTILITIES, INC.

1320 WASHINGTON STREET
COLUMBIA, SOUTH CAROLINA 29201
709-8663

May 9, 1983

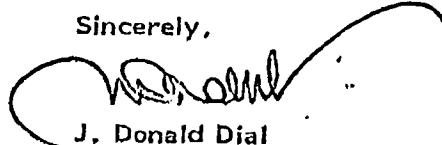
Mr. Taylor Boyd
1529 Horseshoe Drive
Columbia, South Carolina 29204

Dear Mr. Boyd:

In answer to your inquiry today, Alpine Utilities does have sufficient capacity to serve the forty apartment units that you propose to build on Meetze Road, west of Broad River Road.

Alpine's line can be reached by your going through the interior lines of Colony East Apartments, which you tell me you are making the necessary arrangements with Colony East to do.

Sincerely,



J. Donald Dial
President

JDD/lw

06/19/2008 10:37 FAX

ALPINE UTILITIES, INC.

1820 WASHINGTON STREET
COLUMBIA, SOUTH CAROLINA 29201
709-9663

December 8, 1983

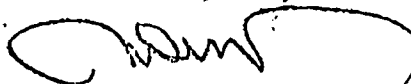
Mr. Taylor Boyd
Boyd Construction Company
1529 Horseshoe Drive
Columbia, South Carolina 29204

Dear Mr. Boyd:

In accordance with our telephone conversation today, please accept this letter as confirmation that your proposed forty-six units of duplexes, known as Wind-Ridge located on the eastern side of Kay Street in Richland County, can be served by Alpine Utilities, Inc.

This is not a commitment to serve which can be given only at the time a sewer contract is entered into by both parties and the sewer tap fee paid.

Yours very truly,



J. Donald Dial
President

JDD /lw

06/19/2008 10:37 FAX

ALPINE UTILITIES, INC.

1320 WASHINGTON STREET
COLUMBIA, SOUTH CAROLINA 29201
708-9663

February 16, 1984

Mr. Taylor Boyd
1529 Horseshoe Drive
Columbia, South Carolina 29204

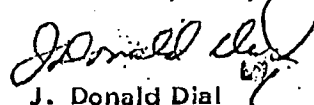
In Re: Windridge Subdivision

Dear Mr. Boyd:

Please accept this letter as Alpine Utilities' commitment to accept for maintenance in perpetuity the eight-inch (8") outfall sewer mains running in the street rights of ways and down the back lot line, as shown on page 3 of 9 Utilities Plan of Windridge subdivision, prepared by Civil Engineering Company of Columbia, dated December 14, 1983. A fifteen (15') foot permanent easement for maintenance will be given to Alpine Utilities covering these lines.

If any additional information is needed from Alpine, please let me know.

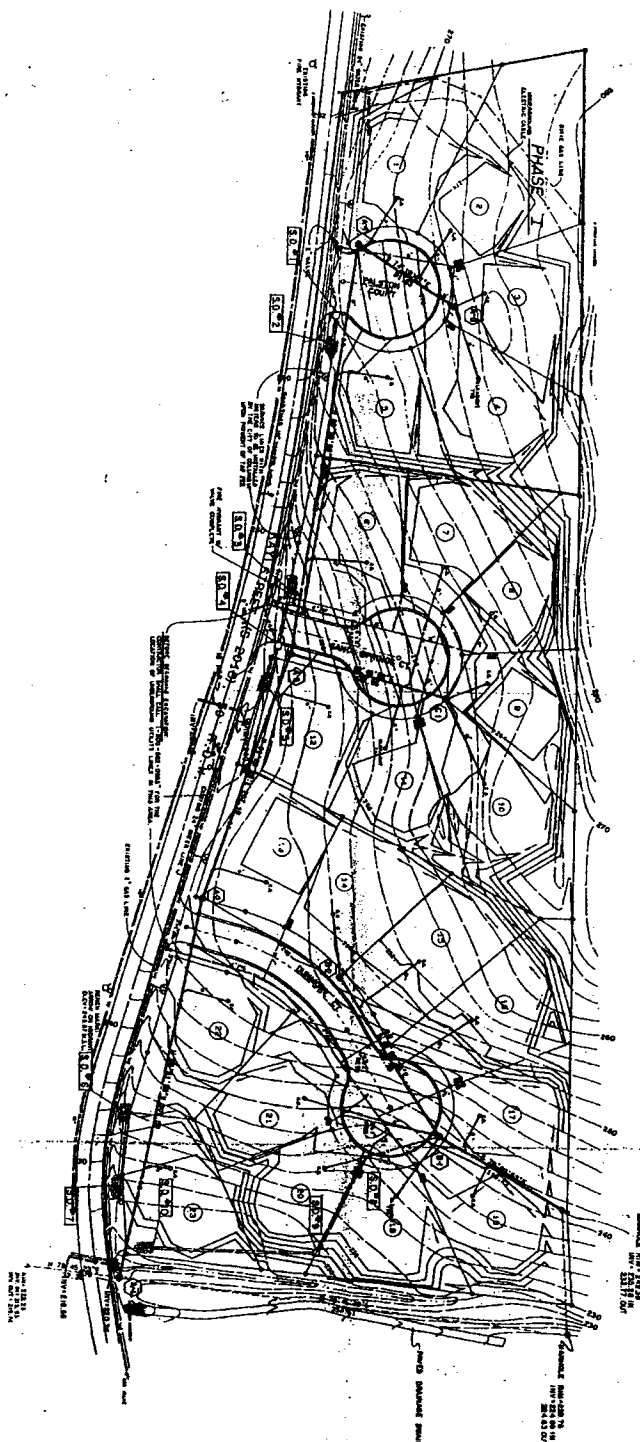
Yours very truly,



J. Donald Dial
President

JDD/lw



[illegible]

STATE OF SOUTH CAROLINA)
)
) SEWER UTILITY SERVICE AGREEMENT
COUNTY OF RICHLAND)

THIS AGREEMENT entered into this 23rd day of July, 1984 by and between ALPINE UTILITIES INC., hereinafter known as the "Utility", and TFB CONSTRUCTION COMPANY, ~~for Complex Partnership, A General Partnership~~ hereinafter known as the "Developer"

WITNESSETH:

WHEREAS, the Developer plans to construct the Windridge Duplex Development, consisting of a total of forty-six (46) units, to be located on the eastern side of Kay Street, north of St. Andrews Road, in Richland County, State of South Carolina, and the Developer is desirous of securing sewer service to this project; and,

WHEREAS, the Utility has certain sewerage facilities which it will make available to the Developer, its successors and assigns;

NOW THEREFORE, in consideration of the agreements contained herein, the Utility, its successors and assigns hereby agrees:

1. To reserve and to provide in perpetuity, except as hereinafter set forth, sewer service sufficient and adequate to meet the needs of the forty-six (46) units to be constructed by the Developer.

2. To obtain the approval of such state agencies as required in regard to the furnishing of these services and the setting of these rates, including the South Carolina Department of Health and Environmental Control and the South Carolina Public Service Commission.

The Developer agrees:

1. That it will continue to take service from the Utility as long as the Utility remains approved to render such service by the South Carolina Department of Health and Environmental Control.

2. That it will pay to the Utility a sewer tap fee of Eleven Thousand, Five Hundred (\$11,500.00) Dollars, the receipt of which is hereby acknowledged at the signing of this Agreement.

3. That it will, at its own cost, bring its service pipe to the nearest Alpine outfall line.

4. That it will pay to the Utility a monthly sewer service charge of Three Hundred Seventy-nine and 50/100 (\$379.50) Dollars, said service charge to be payable no later than the tenth day of the month in which due. It is the responsibility of the Developer to notify the Utility when to commence monthly service charges.

IT IS MUTUALLY UNDERSTOOD AND AGREED that the sewer tap fee and the monthly sewer service charge quoted herein are for the forty-six (46) units only and any change in the use of the buildings or additions to the original structures shall require a requisite sewer tap fee and monthly service charge to be paid in accordance with Alpine's approved schedule of charges, as set forth by the South Carolina Public Service Commission.

THIS AGREEMENT shall enure to the benefit of the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF the parties hereto have set their hands and seals the day and year first above written.

WITNESSES:

Louise C. Wyne

Louise C. Wyne

ALPINE UTILITIES, INC.

BY: _____

J. Donald Dial
J. Donald Dial, President

TFB CONSTRUCTION COMPANY
For ~~COMPLEX PARTNERSHIP~~, A General
Partnership

BY: _____

Taylor F. Boyd
Taylor F. Boyd
Its Managing Partner

Austin & Rogers, P.A.
ATTORNEYS AND COUNSELORS AT LAW

WILLIAM FREDERICK AUSTIN
TIMOTHY F. ROGERS
RAYMON E. LARK, JR.
RICHARD L. WHITT
JEFFERSON D. GRIFFITH, III*
EDWARD L. EUBANKS
W. MICHAEL DUNCAN

COLUMBIA OFFICE:
CONGAREE BUILDING
508 HAMPTON STREET, SUITE 300
POST OFFICE BOX 11716
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 256-4000
FACSIMILE: (803) 252-3679
WWW.ALRLAW.COM

WINNSBORO OFFICE:
120 NORTH CONGRESS STREET
POST OFFICE BOX 1061
WINNSBORO, SOUTH CAROLINA 29180
TELEPHONE: (803) 712-9900
FACSIMILE: (803) 712-9901

* ALSO MEMBER NORTH CAROLINA BAR

July 24, 2008

ORIGINAL

DELIVERED VIA FED EX

Alpine Utilities, Inc.
C/O: Mr. Robin Dial
2712 Middleburg Drive - #208
Columbia, South Carolina 29204

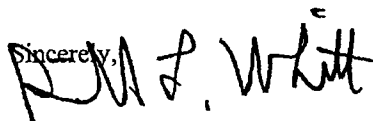
Re: • **Windridge Townhomes**
• 3300 Block of Kay Street, Columbia, South Carolina, 29210

Dear Mr. Dial,

The undersigned represents the owners and operators of Windridge Townhomes, (hereinafter "Windridge"). Windridge is a customer of Alpine Utilities, Inc. (hereinafter, "Alpine").

The owners of Windridge are aware that Alpine has been charging monies for monthly sewer charges in contravention of state law. Windridge, through counsel, requests that an immediate meeting be held with representatives of Alpine to arrange Alpine's compliance with state law.

Windridge is entitled to a return of monies improperly collected to date and will cooperate in arrangements to arrange for monthly billing for sewer services for the tenants of Windridge. Windridge views this as a very serious matter and we must hear from representatives of Alpine within fifteen days of the date of this correspondence, or the close of business on Thursday, August 7, 2008. If not, Windridge has authorized counsel to file an appropriate legal action in Circuit Court to enforce its rights.

Sincerely,

Richard L. Whitt

RLW/jls

Richard L. Whitt
Attorney At Law

Austin, Lewis & Rogers, P.A.
PO Box 11716 (29211)
508 Hampton Street, Suite 300
Columbia, SC 29201

Telephone: 803-256-4000
Facsimile: 803-252-3679
E-mail: rlwhitt@alrlaw.com
Website: www.alrlaw.com

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW
930 RICHLAND STREET
P.O. BOX 8416
COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
ELIZABETH ZECK*
BENJAMIN P. MUSTIAN
MICHAEL R. BURCHSTEAD

August 7, 2008

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062
TRACEY C. GREEN
SPECIAL COUNSEL

*ALSO ADMITTED IN TX

Richard L. Whitt, Jr., Esquire
Austin & Rogers, P.A.
Post Office Box 11716
Columbia, South Carolina 29201

RE: Windridge Townhomes; 3300 Block of Kay
Street, Columbia, South Carolina, 29210

Dear Mr. Whitt:

Your letter to Alpine Utilities, Inc. ("Alpine") addressed in care of Mr. Robin Dial and dated July 24, 2008, concerning the above-referenced premises has been referred to this firm for response. For a variety of reasons, a definitive, substantive response to your letter cannot at this time be made. However, if you will kindly provide the information requested below, Alpine will be in a position to provide you with such a response.

You indicate that you represent "the owners and operators of Windridge Townhomes." Please advise me as to the legal identity of these owners and operators. This information is necessary for Alpine to be able to evaluate the claim you assert your clients have.

You indicate that your clients "are aware that Alpine has been charging monies for monthly sewer charges in contravention of state law" and assert that they "are entitled to a return of monies improperly collected to date." Please advise me as to the basis for this claim, the identity of the person or entity to whom these charges have been made, the amount your clients contend they are due, the manner in which the amount alleged to be due them has been calculated, the basis for their entitlement to such monies, and a citation to the "state law" upon which your clients rely for this assertion.

You indicate that your clients "will cooperate in arrangements to arrange (*sic*) for monthly billing for sewer services for the tenants of Windridge." Please advise me as to the basis upon which your clients are authorized to represent these tenants in connection with such proposed arrangements or if you have knowledge that such tenants have consented to such an arrangement.

(Continued . . .)

Richard L. Whitt, Jr., Esquire
August 7, 2008
Page 2

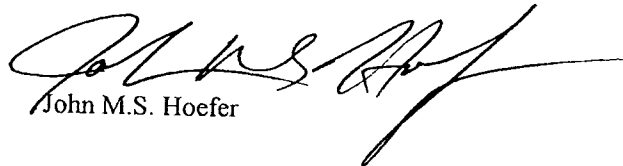
You indicate that your clients have "authorized counsel to file an appropriate legal action in Circuit Court to enforce [their] rights." Please advise me as to the nature of such authorized action that would be cognizable in the court of common pleas. Cf. S.C. Code Ann. §58-5-290(1976).

Finally, Mr. Dial, on behalf of Alpine, is willing to meet with your clients **alone** to discuss this matter at their convenience. Alpine does not wish to engage counsel to participate in any such meeting given the scarcity of information provided to support your clients' asserted claim and Alpine's belief that there is no basis for any such claims. Therefore, Alpine is unwilling to participate in any meeting at this time in which you or other counsel for your clients would be present.

If you have any questions, or need additional information, please do not hesitate to contact me. With best regards, I am

Sincerely,

WILLOUGHBY & HOEFER, P.A.


John M.S. Hoefer

JMSH/

cc: Mr. Robin Dial

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-360-S**

Happy Rabbit, LP on behalf of Windridge,)
Townhomes,)
)
Complainant)
)
v.)
)
Alpine Utilities, Inc.,)
)
Defendant.)
_____)

CERTIFICATE OF SERVICE

SO. PUBLIC SERVICE
COMMISSION

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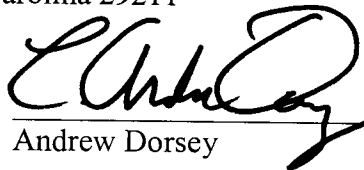
RECEIVED

This is to certify that I have caused to be served this day one (1) copy of the **Direct Testimony of Robin Dial** via hand delivery to the address below:

Richard L. Whitt, Esquire
Austin & Rogers, P.A.
508 Hampton Street, Suite 300
Columbia, SC 29211

I further certify that I have caused to be served one (1) copy of the above-referenced document by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Nanette S. Edwards, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211


Andrew Dorsey

Columbia, South Carolina
This 17th day of February, 2009.